IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH

AT HYDERABAD

THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No. 767 of 2006

Dated : 10.1.2006

Between:

Mohd. Habeeb Ali

.. Petitioner

and

The Commissioner,

Kukatpally Municipality,

Kukatpally, Ranga Reddy district.

.. Respondent

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel for respondent-Municipality.

2. The petitioner states that a notice dated 15-11-2005 was issued to him under Section 228(1) and (2) and 227(1) and (2) of the A.P. Municipality Act, 1965 calling upon to submit his explanation within (7) days as to why the unauthorized construction shall not be removed.

The grievance of the petitioner in this writ petition is that without waiting for the said (7) days period, the respondent issued confirmation order dated 19-11-2005 under Section 42(1) and 43(1) of A.P. Urban Areas (Development) Act, 1975 directing him to remove by demolition within (3) days from the date of service of the order. The petitioner states that though he submitted explanation, the respondent-Municipality did not receive the same on the ground that final orders have already been passed on 19-11-2005. It is stated that the letter dated 19-11-2005 was served on the petitioner on 21-11-2005. Questioning the said confirmation order dated 19-11-2005, the petitioner filed the present writ petition contending that no opportunity was given to him to submit his explanation to the provisional notice dated 15-11-2005 and the respondent passed final order dated 19-11-2005 illegally on extraneous considerations. It is contended that the confirmation order dated 19-11-2005 is illegal and contrary to the provisions of A.P. Municipalities Act, 1965 and A.P. Urban Areas (Development) Act, 1975.

3. Having regard to the facts and circumstances of the case, I am of the view that without there being any opportunity to the petitioner to submit his explanation to the provisional notice dated 15-11-2005 within the period stipulated, the confirmation order dated 19-11-2005 is not sustainable.

4. Accordingly, the writ petition is allowed and the confirmation order dated 19-11-

2005 passed by the respondent-Municipality in Proceedings C.O.No.TPS.II/215/UC/2005, is set aside. The petitioner is directed to submit his explanation to the provisional notice dated 15-11-2005 within (7) days from today and on such explanation, the respondent-Municipality shall consider the same and pass appropriate orders thereon in accordance with law. No costs.

_____

JUSTICE V.ESWARAIAH

Date: 10-01-2006

DA/GLV

THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No. 767 of 2006

Dt.10-01-2006